

1 **RYLEY CARLOCK & APPLEWHITE**

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5 Attorneys for Chapter 7 Trustee, Maureen Gaughan

7 **IN THE UNITED STATES BANKRUPTCY COURT**

8 **FOR THE DISTRICT OF ARIZONA**

9 *In re:*

10 **CHARLES THOMAS BROWN d/b/a TOM**  
11 **BROWN PREFERRED TRUST COMPANY,**

12 Debtor,

13 **MAUREEN GAUGHAN, Chapter 7 Trustee**

14 Plaintiff

15 v.

16 **ANN AKAMINE; et al.**

17 Defendants

Proceedings Under Chapter 7

No. 97-14228-PHX-GBN

Adversary No. 99-00746

**TRUSTEE'S APPLICATION FOR  
DEFAULT JUDGMENT**

18 Plaintiff, Chapter 7 Trustee Maureen Gaughan ("Trustee"), by and through Counsel, Ryley, Carlock  
19 & Applewhite, P.A., requests the Clerk of the Court, pursuant to Rule 7055(b)(1), Federal Rules of  
20 Bankruptcy Procedure, to enter a Default Judgment against the Claude Petty and Bridget Petty (the "Non-  
21 Answering Defendants").

22 Under Rule 7055(b)(1), when a defendant has been defaulted for failure to appear and the plaintiff's  
23 claim against a defendant is for a sum certain, or for a sum which can by computation be made certain, the  
24 clerk, upon request of the plaintiff and upon affidavit of the amount due shall enter judgment for that amount  
25 and costs against the defendant.  
26

1 On December 29, 2000, the Clerk entered a default against the Non-Answering Defendants for  
2 failure to plead or otherwise defend in the above captioned adversary proceeding as provided for by the  
3 Federal Rules of Bankruptcy Procedure (Exhibit "A").

4 The Trustee seeks a default judgment against the Non-Answering Defendants in the sum certain  
5 amount set forth below and attached as Exhibit "B." This amount was specifically requested in the Trustee's  
6 complaint (See Exhibit "C" and paragraphs 327, 336, 349, and 361 of the Trustee's complaint). Exhibit "B"  
7 is a report prepared by the firm of Tucker Alan, Inc. that lists the total payments received by the Non-  
8 Answering Defendants. The report is a condensed version of the report attached to the Trustee's complaint.

9 Maureen Gaughan, the Chapter 7 Trustee for Charles Thomas Brown, is entitled to have judgment  
10 in her favor and against the Non-Answering Defendants and hereby requests the clerk to enter a judgment  
11 of default against the Non-Answering Defendants as follows:

12  
13 Claude & Bridget Petty \$24,530.00  
14

15 The Trustee, pursuant to 28 U.S.C. §1961, further requests that she be awarded interest on the  
16 foregoing amounts, at a rate of 6.052 percent (6.052%) per annum, from and after October 18, 1999, the  
17 date of the Trustee's complaint.

18 In addition, the Trustee seeks an Order, pursuant to 11 U.S.C. § 502(d), disallowing any claim of the  
19 Non-Answering Defendants against the bankruptcy estate unless and until the Non-Answering Defendants  
20 have paid fully the amounts due to the Trustee as described above.

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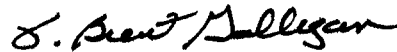
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1 This Application for Default Judgment is supported by the Entry of Default (Exhibit "A"), the  
2 payment report prepared by the firm of Tucker Alan, Inc. (Exhibit "B"), and the attached Affidavit In  
3 Support of Trustee's Application for Default Judgment (Exhibit "C").

4 DATED this 24th day of January, 2001.

6 RYLEY, CARLOCK & APPLEWHITE, P.A.

7 

8 By: /s/ T. Brent Galligan - 020457

9 John J. Fries  
10 T. Brent Galligan  
11 101 North First Avenue, Suite 2700  
12 Phoenix, Arizona 85003  
13 Attorneys for Chapter 7 Trustee Maureen Gaughan  
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EXHIBIT

A

**RYLEY CARLOCK & APPLEWHITE**

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John J. Fries - 007182

T. Brent Galligan

Attorney for Plaintiff, Maureen Gaughan, Chapter 7 Trustee

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

*In re:*

CHARLES THOMAS BROWN d/b/a TOM  
BROWN PREFERRED TRUST COMPANY,

Debtor

MAUREEN GAUGHAN, Chapter 7 Trustee,  
Plaintiff

v.

ANN AKAMINE; *et al.*

Defendants

Proceedings Under Chapter 7

No. 97-14228-PHX-GBN

Adversary Proceeding No.: 99-00746

**ENTRY OF DEFAULT RE: PLAINTIFF'S  
THIRD APPLICATION FOR ENTRY OF  
DEFAULT AGAINST NON-ANSWERING  
DEFENDANTS**

Defendants Cecilia Chandler, Charles A. Hill, Robert E. Knoll, Kay S. Knoll, Loretta Kobashi, Claude Petty, Bridget Petty, and Jerry Raynor (collectively the "non-answering defendants") having been regularly served with process and with notice of the Application for Entry of Default and having failed to plead or otherwise defend in this action, and the time allowed having expired, the default of Defendants named above, is hereby entered.

SIGNED AND SEALED THIS DATE: 12-27-00



KEVIN O'BRIEN, Clerk

By: Sue Christensen  
Deputy Clerk

**Charles Thomas Brown Bankruptcy****Disbursements For Certain Investors***Totals by Investor Group and Date Posted*

Investor Code	Amount Disbursed			Name	2nd Line	Street Address	City State Zip
	Within 90 Days	Within 1 Year	Within 4 Years				
P07	\$0.00	\$0.00	\$0.00	Claude T. & Bridget A. Petty		37222 Serpentine Lane	Burney CA 96013-4244
<b>TOTAL</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>				

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Attorneys for Chapter 7 Trustee, Maureen Gaughan

## IN THE UNITED STATES BANKRUPTCY COURT

## FOR THE DISTRICT OF ARIZONA

*In re:*CHARLES THOMAS BROWN d/b/a TOM  
BROWN PREFERRED TRUST COMPANY,

Debtor,

MAUREEN GAUGHAN, Chapter 7 Trustee

Plaintiff

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ANN AKAMINE; *et al.*

Defendants

Proceedings Under Chapter 7

No. 97-14228-PHX-GBN

Adversary No. 99-00746

**AFFIDAVIT IN SUPPORT OF TRUSTEE'S  
APPLICATION FOR DEFAULT  
JUDGMENT****T. BRENT GALLIGAN**, after first being duly sworn, states as follows:

1. I am the attorney for the Plaintiff, Maureen Gaughan, Chapter 7 Trustee for Charles Thomas Brown, and file this affidavit in compliance with Rule 7055(b)(1), Federal Rules of Bankruptcy Procedure.

2. Defendants, Claude Petty and Bridget Petty (together the "Non-Answering Defendants") have failed to plead or otherwise defend this action as provided by the Federal Rules of Bankruptcy Procedure.

///

1           3.     Pursuant to Rule 7055(a), the Clerk entered an Entry of Default against the Non-  
2 Answering Defendants on December 29, 2000.

3           4.     Trustee is entitled to judgment in her favor and against each Non-Answering  
4 Defendant for the sum certain amounts as they appear in the Trustee's Application for Default Judgment.

5           5.     In compliance with 50 U.S.C. App. §520(1), the Trustee is unable to determine  
6 whether or not the Non-Answering Defendants are in military service.

7           WHEREFORE, the affiant requests that Judgment By Default be entered against each of  
8 the Non-Answering Defendants, as identified herein.

9           DATED this 24th day of January, 2001.

10                               RYLEY, CARLOCK & APPLEWHITE, P.A.

11                               *T. Brent Galligan*

12           By:   /s/ T. Brent Galligan

13                               John J. Fries  
14                               T. Brent Galligan  
15                               101 North First Avenue, Suite 2700  
                              Phoenix, Arizona 85003  
                              Attorneys for Chapter 7 Trustee Maureen Gaughan

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1 STATE OF ARIZONA )  
2 ) ss.  
3 County of Maricopa )  
4

5 On this 24<sup>th</sup> day of January, 2001, before me, the undersigned officer, personally appeared  
6 T. Brent Galligan, whose signature appears above, known to me (or satisfactorily proven) to be the person  
7 whose name is subscribed to the within instrument and acknowledged to me that this instrument was  
8 executed for the purposes herein contained.

9 IN WITNESS WHEREOF, I have set my hand and official seal.

10  
11  
12 My Commission Expires:

*Cathy Edwards*  
/s/ Cathy Edwards

NOTARY PUBLIC

13  
14 11/3/03

